



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0718; FRL-9935-02-R4]

Air Plan Approval; NC: Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the State of North Carolina on December 14, 2020, through the Department of Environmental Quality (DEQ), Division of Air Quality (DAQ), for the purpose of removing Lee, Onslow, and Rockingham Counties from North Carolina's motor vehicle inspection and maintenance (I/M) program. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0718. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that, if at all possible, you contact the person listed in the **FOR**

FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

The DAQ submitted a SIP revision on December 14, 2020, seeking to remove Lee, Onslow, and Rockingham Counties from North Carolina's SIP-approved I/M program. The DAQ submitted this SIP revision in response to North Carolina legislation enacted in Session Law 2020-5, House Bill 85, which amended North Carolina General Statute section 143-215.107A(c) to remove these three counties from the North Carolina I/M Program.¹ Specifically, the North Carolina Act requires the elimination of Lee, Onslow, and Rockingham Counties from the I/M program and the retention of the I/M program in 19 counties (Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lincoln, Mecklenburg, New Hanover, Randolph, Rowan, Union, and Wake).

Sections 187(a)(4) and 182(b)(4) of the CAA require the implementation of an I/M program in certain areas classified as moderate nonattainment or higher for the ozone or carbon monoxide (CO) NAAQS.² Lee, Onslow, and Rockingham Counties have never been designated nonattainment for ozone or CO (or any other NAAQS) and are currently in attainment for all NAAQS. These three counties were included in the State's I/M program to provide North

¹ The removal becomes effective the first day of a month that is sixty days after the State's Secretary of the DEQ certifies to the State's Revisor of Statutes that EPA approved the SIP revision.

² The I/M program was never a mandatory program pursuant to the CAA for Lee, Onslow, or Rockingham counties.

Carolina with emissions credit for the NO_x SIP Call obligations. *See* 67 FR 66056 (October 30, 2002). The NO_x SIP Call, issued by EPA in 1998, required some states, including North Carolina, to meet statewide NO_x emission requirements during the ozone season (May 1 through September 30 control period) to reduce the amount of ground level ozone that is transported across the eastern United States. *See* 84 FR 8422 (March 8, 2019).

In a notice of proposed rulemaking (NPRM), published on June 22, 2022, EPA proposed to approve the removal of Lee, Onslow, and Rockingham Counties from North Carolina's SIP-approved I/M program (and consequently, the removal of reliance on credits gained from I/M emissions reductions from Lee, Onslow and Rockingham Counties in the State's NO_x Budget and Allowance Trading Program). *See* 87 FR 37280. As explained in the June 22, 2022, NPRM, EPA found that the removal of the I/M program for the Lee, Onslow, and Rockingham Counties would not impact North Carolina's ability to attain or maintain compliance with the NAAQS and would not interfere with the State's obligations under the NO_x SIP Call. Comments on the June 22, 2022, NPRM, were due on or before July 22, 2022. EPA did not receive any adverse comments on the June 22, 2022, NPRM.

II. Final Action

EPA is finalizing approval of North Carolina's December 14, 2020, SIP revision. Specifically, EPA is approving the removal of Lee, Onslow, and Rockingham Counties from the SIP-approved I/M program. Additionally, EPA finds that North Carolina's removal of the three counties from the SIP-approved I/M program (and the removal of reliance on the I/M emissions reductions generated from those counties as part of the "credits" in North Carolina's NO_x emissions budget) will not interfere with the State's obligations under the NO_x SIP Call to meet its Statewide NO_x emissions budget. EPA finds that the approval of this revision will not interfere with continued attainment or maintenance of any applicable NAAQS, or with any other applicable requirement of the CAA. EPA also finds that North Carolina's December 14, 2020, SIP submission satisfies the requirements of section 110(l) of the CAA.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 1, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II—North Carolina

2. In § 52.1770 in paragraph (e), amend the table by adding a new entry for “Removal of Lee, Onslow, and Rockingham Counties from North Carolina’s Inspection and Maintenance Program and 110(l) Non-Interference Demonstration” at the end to read as follows:

§52.1770 Identification of plan.

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(e) * * *

EPA-Approved North Carolina Non-Regulatory Provisions

Provision	State effective date	EPA approval date	Federal Register citation		Explanation
**	**	*	*		*
Removal of Lee, Onslow, and Rockingham Counties from North Carolina’s Inspection and Maintenance Program and 110(l) Non-Interference Demonstration	12/14/2020	[Insert date of publication in the Federal Register]	[Insert citation of publication]		

[FR Doc. 2022-16905 Filed: 8/10/2022 8:45 am; Publication Date: 8/11/2022]